# Energy Update

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# Judge denies Edison – Assembly conducts oversight hearings

## Judge denies bid by Edison to boost consumers' rates

Southern California Edison lost another route out of its financial quagmire Monday, when a federal judge in Los Angeles denied its request for an order that would have forced the state Public Utilities Commission to substantially raise consumers' electricity rates.

U.S. District Judge Ronald S.W. Lew called Edison's motion for a preliminary injunction "wholly inappropriate" and an unconstitutional interference with California's regulatory rights.

Edison officials had claimed that Lew validated their position that federal law required "all reasonable incurred costs" to be passed along to consumers.

On Monday, Lew called Edison's interpretation of his ruling "flatly wrong" and warned: "I don't want there to be spins by anyone outside this court."

Afterward, Edison attorney John W. Spiegel asked Lew to set an early date for trial of his client's lawsuit challenging the PUC's rate caps.

Lew said he would do so, but strongly indicated that he would probably issue a summary judgment resolving the lawsuit before it gets to trial.

"This is not a do-it-all court for all of your concerns," he told Edison's lawyers.

In Sacramento, Monday's court ruling was greeted with a measure of relief. Assemblyman Fred Keeley (D-Boulder Creek) characterized the decision as "a process ruling" that gives lawmakers time to work out a solution.

Utility analysts said the court ruling made bankruptcy a more likely option. "The risk has increased a little bit," said Brian Youngberg, a financial analyst with the Edward Jones investment firm in St. Louis. "The creditors, the generators, are losing their patience."

Edison faces the end of two crucial 30-day grace periods this week. Today is the expiration of a grace period for payment of a $200-million default to 23 banks. A separate 30-day grace period ends Thursday for roughly $600 million in electricity and bond payments.

Edison's lead banks--Bank of America, Chase and Citibank--all declined to comment, but generators appeared to be willing to wait, if not indefinitely.

## Assembly conducts Oversight hearings

The Assembly Sub-committee on Electrical Energy Oversight completed its first three days of hearings Friday, including the first public testimony by the chief executive officers of the state's two largest public utilities.

John Bryson, head of Edison International, the parent company of Southern California Edison, and Robert Glynn, head of Pacific Gas and Electric Corp., both acknowledged that deregulation had allowed hundreds of millions of dollars to pour to the companies' unregulated subsidiaries outside of California.

Assemblymember Darrell Steinberg, D-Sacramento and chair of the subcommittee, said the hearings showed that the two companies had billions of dollars in assets that now could be used to support their electric utilities in California.

"They tried to keep both sides separate," said Assemblymember Juan Vargas, D-San Diego and another subcommittee member, "But the reality is the holding company benefited from the utilities. It was a huge benefit. Now is the time to give that back. This should not be a one-way street."

Among the discoveries made by the committee was that California utility customers paid money to the utilities to cover federal and state income taxes. However, because of losses incurred by utility subsidiaries, the money was never actually paid to the government. Instead, it was sent to these subsidiaries to help their operations and expansion.

In the case of Southern California Edison, some $1.4 billion in tax payments were sent to the parent company since 1996. None of the money went to the government.

The subcommittee's inquires also revealed a CPUC whose staff had been drastically reduced in anticipation of deregulation.

Current and former staff members said that reductions had demoralized the staff and commission policies kept them from proactively examining prospective problems.

Subcommittee members gave particular attention to the Commission's policies toward long-term contracts between the utilities and private generators.

Utility representatives have argued that last summer they should have been given authority to enter into direct contracts with private generators. Had those contracts been in place, this winter's price spikes and blackouts could have been avoided, they said.

However, CPUC President Loretta Lynch maintained that the companies had been given this authority, but that the commission would reserve the right to review them later to see if they were reasonable.

Assemblymember Steinberg said he expects the subcommittee to hold more hearings on other aspects of the electricity situation in the future. As the Legislature and Governor struggle to find a way to deal with shortages and high electricity prices, Steinberg said an "honest examination" of events leading up to the crisis is imperative.

Other members of the subcommittee include Jenny Oropeza, D-Long Beach, John Campbell, R-Irvine, and Keith Richman, R-Northridge.

### Supplies continue to be tight

The agency that operates the grid said electricity supplies were so tight Monday that it was forced to ask many large users to voluntarily shut off their power.

It was the first such order since Jan. 26, when the PUC said the "interruptible" customers could no longer be fined for disobeying a shut-off order. It was not immediately clear whether the customers--large companies and institutions such as colleges--complied with the order Monday.

It was the 28th consecutive day that the state was under a Stage 3 power alert, the most serious measure of tight electricity supplies.

The shortages have not so far affected customers of the LA Department of Water and Power, a publicly owned utility that has adequate power to serve its customers.

### Labor, environmental groups on same page

Key officials of organized labor, environmental organizations and consumer groups have released a document called "Points of Consensus on Electricity Debacle." The points of agreement are:

- No rollback of labor or environmental protections;
- Protection from rate increases of low and fixed-income consumers;
- Cost-based pricing to protect residential and small business users while encouraging conservation;
- Utility "undercollections" must be fully netted against other revenues received since last summer;
- Utilities and their parent companies must bear a substantial percentage of the undercollections;
- Bankruptcy of utilities should be avoided;
- Any state assistance must be in exchange for assets like transmission lines;
- Create a state power authority to establish long-term control over wholesale markets;
- Conservation, efficiency and renewable energy should be the major component of future resource development;
- The state and federal government should investigate the conduct of utility-owned and out of state generators;
- Require the PUC to conduct a full audit of utilities' books;
- The PUC should regulate plant maintenance to coordinate necessary shutdowns;
- Revamp voluntary interruption policy to protect large customers from insufficient notice and excessive number of interruptions.

### Conservation drops as state pushes voluntary lights-out

Energy conservation is dropping across California even as the state begins an aggressive campaign urging businesses and residents to turn off the lights and turn down the heat.

With no rolling blackouts since the northern two-thirds of the state were shocked by them three weeks ago, Californians are becoming complacent, Stephanie McCorkle, spokeswoman for the Independent System Operator, said Friday. The ISO oversees the state's power grid.

Conservation during peak periods has dropped from 1,000 megawatts – the equivalent of a new power plant the state doesn't have but desperately needs – to about half that since the blackouts ended, McCorkle said. A thousand megawatts is enough for about a million homes.

The drop in conservation – despite a new $20 million ad campaign by the state – comes as Northern California braces for a cold snap expected to stretch into next week.

### Cops not inclined to "enforce" Davis order

The head of the state's sheriffs association told Gov. Gray Davis that sheriff's departments do not plan to assign "power patrols" to enforce his executive order mandating $1,000 fines for retailers who fail to substantially reduce outdoor lighting after business hours.

"The last resort is we're going to come and give you a ticket," said Stanislaus County Sheriff Les Weidman, president of the California State Sheriffs Association. "No one likes the thought of having a cop come around telling you to turn your power down."

Instead, law enforcement wants to work cooperatively with businesses, with an emphasis on rewarding those that dim their lights, said Weidman and Sacramento County Sheriff Lou Blanas.

To that end, the state's Technology, Trade and Commerce Agency will launch a new outreach campaign next week, said Assistant Secretary Norman Williams.

The agency will send e-mails to 80,000 associations, chambers of commerce, and economic development organizations that will in turn pass the message on to more than 300,000 businesses, Williams said.

The agency is developing a citation cooperating businesses can post for customers, and is posting conservation tips on it's Web site. www.commerce.ca.gov.

California Grocers Association, a group of some 6,000 grocery stores, has been credited with conserving mainly by dimming interior lights. But spokesman David Heylen said his association is concerned about Davis' mandate that outdoor lighting also be cut.

"There is a safety concern with the customers and employees," in addition to other practical concerns, he said.

### Famous last words

A radio ad in Virginia: "California wasn't prepared. Virginia is. People want a choice, and the chance to save, but it takes time for electricity competition to develop. Virginia is taking the time to do it right."